

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
'SMC' BENCH, KOLKATA**

**Dr. Manish Borad, Accountant Member**

**I.T.A. No. 121/KOL/2024  
Assessment Year: 2019-2020**

***Nisha Bhattacharyya,.....Appellant  
27/1, CIT, Entally Road,  
Kolkata-700014  
[PAN:ADXPG8005B]***

**-Vs.-**

***Commissioner of Income Tax (Appeals),.....Respondent  
Ward No. 22(1), Kolkata, West Bengal***

**Appearances by:**

*Shri Sourav Chander, Advocate, appeared on behalf of the  
assessee*

*Shri B.K. Singh, JCIT, appeared on behalf of the  
Revenue*

**Date of concluding the hearing : July 18, 2024**

**Date of pronouncing the order : July 22, 2024**

**O R D E R**

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 21<sup>st</sup> November, 2023 passed for assessment year 2019-20.

2. The grounds of appeal raised by the assessee read as under:-

*(1) For that the CIT(A) erred in upholding the order passed by the CPC/Assessing Officer under section 143(1)(a)/ 154 of the Act and his purported findings in this regard are arbitrary, unreasonable and perverse.*

*(2) For that the CIT(A) failed to consider that the CPC/Assessing Officer erred in disallowing Rs.14,08,035/- under section 143(1)(a) of the Income Tax Act, 1961 (in short "the Act").*

*(3) For that the CIT(A) failed to consider that whether the said expenditure of Rs.14,08,035/- is allowable or not is a debatable issue and cannot be disallowed by applying the section 143(1)(a) of the Act.*

*(4) For that the CIT(A) failed to consider that the appellant is a pediatrician and the expenditure of Rs.14,08,035/- was incurred for procuring the vaccines for children which were given to them in the normal course of practice by a pediatrician.*

*(5) For that the CIT(A) failed to consider that the said expenditure of Rs.14,08,035/- was made wholly and exclusively for the purpose of her profession and is an allowable expenditure under section 37(1) of the Act.*

*(6) For that the CIT(A) failed to appreciate that in the facts and circumstances of the appellant's case, provisions of section 143(1)(a)(i) have no application at all.*

*(7) For that the CIT(A) failed to appreciate that there was a mistake on part of the CPC/Assessing Officer to disallow the said amount of Rs. 14,08,035/-, which was apparent on the face of the record and the findings of the CIT(A) in this regard are arbitrary, unreasonable and perverse.*

*(8) For that the CIT(A), in an appeal proceeding, challenging the order passed under section 143(1)(a)/ 154, could not ask the appellant to justify her claim made in the return of income since the adjustments under section 143(1)(a) should have been made, only in respect of any apparent error/mistake and his findings that the appellant was only able to produce evidence in respect of Rs. 1,10,887/- out of her total claim of Rs.14,08,035/- are illegal, invalid, excess of jurisdiction and perverse*

*(9) For that the CIT(A) erred in holding that the CPC/Assessing Officer did not have information/documents from which the nature of direct expenses could be ascertained or that the appellant's case was not a case of mistake apparent from record with the CPC/Assessing Officer at the time of processing of the*

*return and his said findings are contrary to the facts on record and are arbitrary, unreasonable and perverse.*

*(10) For that the CIT(A) failed to consider that in case of any doubt for the correctness of claim of expenditure by the appellant the Assessing Officer should have framed the assessment under section 143(3) of the Act and should have given the assessee an opportunity to rebut the allegations made by the CPC/Assessing Officer.*

*(11) For that further and in any event and without prejudice to the aforesaid the CIT(A) failed to appreciate that the CPC should transfer the rectification right to the concerned Assessing Officer to allow the appellant to pursue his remedy effectively. The CPC, in response to the rectification request, was not right in re-processing the return which rendered the said rectification proceedings ineffective.*

*(12) For that the said order dated November 11, 2023 passed by the CIT (Appeals) is otherwise erroneous on facts and/or in law.*

*The appellant craves leave to add to, alter, amend and/or modify the grounds taken herein.*

3. The sole grievance of the assessee is that CPC erred in disallowing Rs.14,08,035/- in the order under section 143(1)(a) of the Income Tax Act for the direct expenditure incurred by the assessee for procuring the vaccines for children.

4. At the outset, ld. Counsel for the assessee submitted that the assessee made valid claim in the income tax return. No opportunity was granted by CPC to the assessee before making the said adjustment. It is also stated that such type of adjustment does not fall within the purview of *prima facie* adjustments, which can be made in the processing of return under section 143(1)(a) of the Act. Lastly ld. Counsel submitted that if necessary opportunity is granted then the assessee can place copy of invoices before the ld. Assessing Officer for necessary verification.

5. The ld. D.R. at the time of argument vehemently supported the order of lower authorities, but did not object to the request of the ld. A.R. for setting aside the issue to the ld. Assessing Officer for necessary verification.

6. I have heard the rival contentions and perused the relevant material placed before me. From the record, I observe that the assessee is an individual and furnished her return of income in ITR Form ITR 3 on 31<sup>st</sup> July, 2019 declaring total income at Rs.11,17,380/-. In computing the said income, the assessee has claimed expenditure to the tune of Rs.14,08,035/- incurred towards purchase of vaccines for children. The assessee is a Pediatrician and, therefore, her patients are children and the claim for medicine expenses was made in the income tax return. Firstly, I fail to find any justification in the action of the CPC making the alleged disallowance which does not fall in any of the clauses of section 143(1)(a) of the Act and cannot be said to be a *prima facie* adjustment. There may be a possibility that an inadvertent mistake is committed while filling in column of the income tax return, which may have given rise to the said adjustment, but then the assessee could have rectified the said mistake by furnishing Revised xml file on the Income Tax Portal. But no such action has been taken by the assessee and the matter travelled to the ld. CIT(Appeals), where the assessee did not get any relief. The assessee has not furnished the copy of the complete income tax return form nor has taken any specific ground about the inadvertent mistake committed in filling the columns of

the income tax return. However, the assessee has placed the copies of invoices indicating the total amount in dispute, which is appearing at pages 11 to 151 of the paper book. I have perused these details and the same are copies of invoices through which the assessee has purchased medicines and vaccines. Summary sheet has also been prepared, which is appearing at pages 11 to 13 with reference to bill nos. and the amounts. I, on going through these details, find force in the contention of the Id. Counsel for the assessee that the actual expenditures have been incurred. However, for the purpose of verification of these details, I accept the request of the Id. Counsel for the assessee and restore the matter to the Id. Jurisdictional Assessing Officer only for verifying the correctness of claim of expenditure of Rs.14,08,035/- for which necessary details shall be filed by the assessee. Needless to mention that proper opportunity shall be given to the assessee.

**7. In the result, the appeal of the assessee is allowed for statistical purposes.**

Order pronounced in the open Court on 22/07/2024.

Sd/-

**(Manish Borad)**  
**Accountant Member**

***Kolkata, the 22<sup>nd</sup> day of July, 2024***

*Copies to :(1 Nisha Bhattacharyya,  
27/1, CIT, Entally Road, Kolkata-700014;*

- (2) *Commissioner of Income Tax (Appeals),  
Ward No. 22(1), Kolkata, West Bengal;*
- (3) *Commissioner of Income Tax (Appeals),  
National Faceless Appeal Centre(NFAC), Delhi;*
- (4) *CIT- , Kolkata;*
- (5) *The Departmental Representative;*
- (6) *Guard File*

*TRUE COPY*

*By order*

*Assistant Registrar,  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata*

***Laha/Sr. P.S.***